

## **Deed of Trust**

### **Institute of Public Affairs Research Trust**

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## This deed of trust

is made on **10 July**

2007 between the following parties:

**1. George Bryant Macfie**

[REDACTED]  
(Founder)

**2. Institute of Public Affairs Limited**  
**ACN 008 627 727**  
**(Trustee)**

Original Declaration Of Trust  
Exempt Section 38-3  
Doc ID 2262332, 05 Oct 2007  
SRO Victoria Duty, MBJ0

### Recitals

- A. The Founder and the Trustee consider it desirable that this trust be established to, among other things, carry our scientific research for public charitable purposes on the basis outlined in this deed.
- B. The Founder has paid the Settled Sum to the Trustee to hold on the trusts outlined in this deed.

### This deed witnesses

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#### 1 Name

The Trust is to be known as **Institute of Public Affairs Research Trust**.

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#### 2 Definitions and interpretation

##### 2.1 Definitions

In this deed:

**Accounting Period** means the period from the date of this deed to the following 30 June and then each period of 12 months ending on 30 June in each year, or any other period that the Trustee decides from time to time;

**Advisory Committee** means a committee established under clause 11;

**Approving Authority** has the meaning outlined in clause 6.2;

**ITAA 36** means the *Income Tax Assessment Act 1936*;

**ITAA 97** means the *Income Tax Assessment Act 1997*;

**Research Committee** means the committee established under clause 6;

**Research Fields** mean fields of research in environmental and social sciences, including, without limiting the above, research regarding the condition of Australia's natural environment, the management of natural resources and the application of technology to the management of the environment;

**Research Fund** has the meaning given in clause 5;

**Settled Sum** means \$100;

**Specified Income** means income of the Trust other than donations, gifts, government grants, and other voluntary transfers of property to the Trust;

**Trust** means the trust established under this deed;

**Trustee** means the person named in this deed as the Trustee and any other trustee for the time being of the Trust whether original, additional or substituted; and

**Trust Fund** means:

- (a) the Settled Sum;
- (b) all money, investments and assets paid or transferred to and accepted by the Trustee as additions to the Trust Fund;
- (c) all accretions to the Trust Fund
- (d) the Research Fund;
- (e) all accumulations of income; and
- (f) the money, investments and property from time to time representing the above or into which they are converted,

and includes any part of the Trust Fund.

## **2.2 Interpretation**

In this deed unless the context requires otherwise:

- (a) the singular (including defined terms) includes the plural and the plural includes the singular, and words of any gender include all genders;
- (b) a reference to this deed means this deed as originally executed and as from time to time lawfully amended, varied or added to; and
- (c) a reference to any legislation includes any amendment to that legislation, any consolidation or replacement of that legislation and any subordinate legislation made under it.

## **2.3 Headings**

Headings are used for convenience only and do not affect the interpretation of this deed.

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## **3 Declaration of trust**

The Founder and the Trustee declare that the Trustee will hold the Trust Fund and the income from the Trust Fund on the trusts, with the powers and subject to the provisions in this deed.

## 4 Purposes

### 4.1 Application of income and capital

- (a) The Trustee must hold the Trust Fund and the income of the Trust Fund derived in each Accounting Period on trust to pay or apply the income and, if and so far as it thinks fit, all or any part of the capital of the Trust Fund, for the public charitable object of undertaking scientific research which is or may prove to be of value to Australia in the Research Fields in accordance with the decisions of the research committee established under clause 6.
- (b) No part of the Trust Fund (including the Research Fund) or the income may be paid, transferred or distributed, directly or indirectly, by way of bonus, dividend, or other profit distribution, to the Trustee or any of its members or directors. However, this clause 4.1(b) does not prohibit making a payment permitted by clause 14.

### 4.2 Factors Trustee may consider

In exercising its discretions under clause 4.1, the Trustee may have regard to:

- (a) any recommendations of an Advisory Committee with authority to make the recommendations; and
- (b) the provisions and objects, so far as they are consistent with the purpose of the Trust, of any other trust (including a trust established by a testamentary instrument) where:
  - (1) the capital of that other trust has been transferred to or otherwise vested in the Trustee to hold on the trusts of this deed; and
  - (2) the trustee of the other trust has requested the Trustee to recognise the provisions or objects of the other trust in exercising the Trustee's discretions and powers under this deed.

### 4.3 Policies and rules

For the purpose of paying or applying the income or capital, the Trustee may:

- (a) formulate policies;
- (b) make rules in connection with a policy;
- (c) revoke or amend a policy or rules and formulate others.

### 4.4 Trustee may accumulate income

Despite clause 4.1, the Trustee may in any Accounting Period accumulate and retain as part of the Trust Fund so much of the receipts of the Trust Fund as it thinks fit, so long as the proportion of the Specified Income accumulated in any Accounting Period does not exceed 20% of the Specified Income derived by the Trustee during that period, or any other percentage or amount that is from time to time approved by the Commissioner of Taxation or a Deputy Commissioner of Taxation.

## 5 Establishment and operation of Research Fund

### 5.1 Maintaining Research Fund

- (a) The Trustee must maintain for the object of the Trust as outlined in clause 4.1(a), a fund (**Research Fund**):
  - (1) to which all gifts of money or property for that object are to be made;
  - (2) to which any money received by the Trust because of those gifts is to be credited; and
  - (3) that does not receive any other money or property.
- (b) The Trustee must maintain a bank account for the Research Fund and use the account exclusively for the purposes of the Research Fund.

### 5.2 Limits on use of Research Fund

The Trustee must use the following only for its object;

- (a) gifts made to the Research Fund; and
- (a) any money received because of those gifts.

### 5.3 Winding up

- (a) At the first occurrence of:
  - (1) the winding up of the Research Fund; or
  - (2) the Trust ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the ITAA 97,any surplus assets of the Research Fund must be transferred to an approved research institute as described in item 3.1.1 of the table in section 30-40 of ITAA 97 and:
  - (3) which is charitable at law; and
  - (4) gifts to which are deductible under Division 30 of ITAA 97.
- (b) The identity of the approved research institute must be decided by the Trustee.
- (c) A transfer under this rule to an approved research institute must be made to its research fund for the purposes of it undertaking scientific research in the field of natural or applied science which is or may prove to be of value to Australia.

### 5.4 Receipts

Receipts issued for gifts for the object of the Trust must state:

- (a) the name and Australian Company number of the Trustee ;
- (b) the Australian Business Number of the Trust; and
- (c) the fact that the receipt is for a gift.

## 6 Research committee

### 6.1 Establishment

The Trustee must establish and maintain a research committee consisting of not less than five individuals nominated on the basis of their proven ability to direct a research program as evidenced by their academic qualifications and professional appointments.

### 6.2 Appointment and removal of committee members

- (a) The Trustee has power to appoint each person to the research committee but each appointment must be previously approved by the Approving Authority for the purposes of the definition of "an approved research institute" in section 73A(6) of ITAA 36 (Approving Authority).
- (b) The Trustee may remove a member of the research committee at any time.

### 6.3 Functions

- (a) The functions of the research committee are:
  - (1) to ensure that:
    - (A) the research undertaken by the Trust is scientific in nature; and
    - (B) is or may prove to be of value to Australia;
  - (2) to confirm the scope and purpose of the research activities to be conducted by the Trust are consistent with the Trust's object and decide which research activities are to be funded from the Research Fund; and
  - (3) to administer the disbursement of funds from the Research Fund.
- (b) The Trustee may specify the manner in which proceedings of the research committee are to be conducted.

### 6.4 Personal interest of committee members

- (a) A member of the research committee may vote on a resolution even though that person:
  - (1) has or may have a direct or personal interest or a conflict of fiduciary duty in doing so; or
  - (2) may benefit either directly or indirectly from doing so, if that member has first declared to the meeting the nature of his or her interest in the resolution.
- (b) Despite rule 6.4(a), the member may not vote on a resolution and any purported vote must be disregarded if a majority of the other members of the research committee present at the meeting so decide at any time during the meeting, whether before or after the resolution is made.

## 6.5 Publication of results

The Trustee must make available the results of its research funded from the Research Account for wide publication.

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# 7 Trustee's powers

## 7.1 Investment

The Trustee may invest money of the Trust Fund in a way in which trustees are permitted to invest under the laws of Australia or of any State or Territory of Australia.

## 7.2 Other powers

The Trustee may do all things necessary, incidental or conducive to fulfil the object of the Trust as outlined in clause 4.1 including, without limitation:

- (a) employ and pay or provide any benefit for any employee, including any researcher, without being responsible for the default of the employee or for any loss occasioned by the employment;
- (b) engage, commission and pay any agent, contractor or professional person, including any researcher, without being responsible for the default of the agent, contractor or professional person or for any loss occasioned by the engagement;
- (c) disseminate the results of research, print and publish periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means;
- (d) conduct training and education;
- (e) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges that are required for the purposes of, or capable of being conveniently used in connection with, the Trust's purposes;
- (f) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- (g) invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;
- (h) construct, improve, maintain, develop, work, manage and control real or personal property and enter into contracts and agreements;
- (i) enter into any arrangement with any government or authority that seems conducive to the Trust's purposes, obtain from any government or authority any right, privilege or concession that the Trust thinks it desirable to obtain, and carry out, exercise and comply with any of those arrangements, rights, privileges and concessions;

- (j) spend money and do all other things that it considers desirable to promote the Trust's purposes;
- (k) co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums;
- (l) change an investment for any others or vary the terms and conditions on which an investment is held;
- (m) sell or otherwise dispose of the whole or any part of the investments or property of the Trust Fund;
- (n) borrow or raise or secure the payment of money in any manner the Trustee thinks fit and secure the repayment of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge, lien, encumbrance, debenture or other security, fixed or floating, over any present or future asset of any kind and wherever situated;
- (o) take and act on the opinion of a barrister practising in Australia in relation to the interpretation or effect of this deed or any of the trusts or powers of this deed without responsibility for any loss or error resulting from doing so, but this provision does not stop the Trustee from applying to a court of competent jurisdiction;
- (p) take any action the Trustee thinks fit for the adequate protection or insurance of any part of the Trust Fund;
- (q) purchase, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, and other negotiable or transferable instruments of any kind;
- (r) subject to the trusts of this deed, generally:
  - (1) perform any administrative act; and
  - (2) pay or deduct all costs, charges, commissions, stamp duties, imposts, outgoings and expenses of or incidental to the Trust Fund or its management or which the Trustee thinks fit to pay or deduct (whether or not the Trustee is under any legal obligation to make the payment) or in connection with the preparation, execution and stamping of this deed, as though the Trustee were the absolute owner of the Trust Fund and the income of the Trust Fund;
- (s) attract and encourage donations, gifts (by will or otherwise), endowments, subscriptions, fees, trust distributions and other forms of financial assistance to or for the benefit of the Trust;
- (t) sponsor, organise and undertake fund raising activities and arrange for the issue of appeals to the public for donations;
- (u) accept as part of the Trust Fund any gifts (by will or otherwise), donations, subscriptions, fees, settlements or other dispositions in money, moneys worth or property to or in favour of the Trust Fund and either retain them in their original form without selling or converting them into money, or invest, apply or deal with them in any way that the Trustee may invest, apply or deal with the Trust Fund under this deed;

- (v) decline or otherwise refuse to accept as part of the Trust Fund any gift (by will or otherwise), donation, settlement or other disposition in money, moneys worth or property;
- (w) do all other things incidental to the exercise of the Trustee's powers under this deed.

### 7.3 Powers are supplementary

The powers and discretions in clause 7.2 are to be treated as supplementary or additional to the powers vested in trustees by law.

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## 8 Liability for breaches of trust

The Trustee, where purporting to act in the exercise of the trusts and powers of this deed, and any officer, agent or employee of the Trustee purporting to exercise powers under this deed, is:

- (a) not liable for any loss or liability; and
- (b) entitled to be indemnified from the Trust Fund in respect of any loss or liability,  
unless the loss or liability is attributable to:
- (c) the dishonesty of the Trustee (or of the relevant officer, agent or employee of the Trustee); or
- (d) the wilful commission or omission of an act known by the Trustee (or by the relevant officer, agent or employee of the Trustee) to be a fraudulent breach of trust in bad faith.

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## 9 Indemnity of Trustee from Trust Fund

The Trustee is entitled to be indemnified out of the Trust Fund in respect of:

- (a) all costs and expenses incurred by the Trustee relating to:
  - (1) entering into this deed or any deed amending this deed;
  - (2) establishing, operating, administering, amending, terminating and winding up the Trust; or
  - (3) otherwise in respect of the Trust and all matters incidental to the Trust; and
- (b) all liability incurred (including liability for income tax and any other taxes and all fines and penalties payable in relation to those taxes) and acts and things done in connection with or resulting from the matters referred to in clause 9(a) including, but not limited to, the Trustee performing its duties and exercising its powers, rights and discretions under this deed.

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## 10 Books of account and receipts

### 10.1 Trustee to keep accounts

The Trustee must keep or cause to be kept proper accounts in respect of all receipts and payments on account of the Trust Fund and the Public Fund, and of all dealings connected with the Trust Fund.

### 10.2 Financial statements

As soon as practicable after the end of each Accounting Period the Trustee must prepare or cause to be prepared a financial statement showing the financial position of the Trust Fund, including the Research Fund, at the end of that Accounting Period. The financial statement must be audited in accordance with the obligations imposed on the Trustee by law.

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## 11 Advisory Committees

- (a) The Trustee may establish Advisory Committees and appoint and remove, or make provision for the appointment and removal of, members of Advisory Committees.
- (b) Each Advisory Committee may consist of a single individual or the number of individuals that the Trustee decides.
- (c) The functions of each Advisory Committee will be decided by the Trustee.
- (d) The Trustee may specify:
  - (1) the manner in which proceedings of each Advisory Committee are to be conducted;
  - (2) the matters which the Advisory Committee must have regard to in carrying out its functions; and
  - (3) any other matters concerning the Advisory Committee or its functions that the Trustee decides.
- (e) To avoid any doubt, it is declared that the Trustee may appoint a single individual to act as an Advisory Committee.

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## 12 Patrons

The Trustee may appoint any persons it thinks fit as patrons of the Trust.

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## 13 Amending this deed

The Trustee may by deed revoke, add to or vary any of the terms of any of the trusts, beneficial interests, powers and discretions set out in this deed, so long as:

- (a) no part of the Trust Fund or the income of the Trust Fund becomes subject to any trusts other than public charitable trusts; and

- (b) unless the Commissioner of Taxation or a Deputy Commissioner of Taxation has consented to the revocation, addition or variation:
  - (1) no amendment is made to or affecting clauses 4.1 or 4.4; and
  - (2) no amendment is made to this clause 13 so as to permit this deed to be amended in a manner prohibited by clause 13(b)(1);
  - (3) the Commissioner of Taxation or a Deputy Commissioner of Taxation is notified of the revocation, addition or variation; and
- (c) the Approving Authority is notified of any revocation, addition or variation to clauses 1, 4.1, 5, 6, or 16.

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## 14 Trustee's expenses

The Trustee is entitled to be reimbursed out of the Trust Fund for all costs and expenses properly incurred by it in the administration of the Trust and the execution of the trusts outlined in this deed including, without limitation, the commissioning of scientific research as outlined in clause 4.1(a).

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## 15 General

### 15.1 Receipts by others

The receipt of the person purporting to be the treasurer, secretary or other proper officer of any recipient of a payment or application of income or capital from the Trust Fund under this deed is a sufficient discharge to the Trustee and the Trustee need not see to the application of the payment or application.

### 15.2 Trustee's discretion

Except where there is an express contrary provision in this deed, every discretion given to the Trustee is absolute and uncontrolled and every power given to it is exercisable at its absolute and uncontrolled discretion.

### 15.3 Personal interest of Trustee

The Trustee and any person who is a director or member of the Trustee may exercise or concur in exercising all powers and discretions given by this deed or by law (including making any investment authorised under clause 7.1) even though the Trustee, or any person who is a director or member of the Trustee:

- (a) has or may have a direct or personal interest in the method or result of exercising the power or discretion; or
- (b) may benefit either directly or indirectly from the exercise of any power or discretion,

and even if the Trustee is a sole trustee.

#### **15.4 Delegation of powers**

The Trustee may by power of attorney or otherwise delegate to any person any of the discretionary or other powers given to it under this deed. The execution or exercise of any of the trusts or powers of this deed by an attorney or delegate is valid and effectual and binds all persons interested in the Trust Fund.

#### **15.5 Trustee's receipts**

The Trustee may receive capital and other money and give valid receipts for all purposes including:

- (a) those of any statute; and
- (b) the receipt of any capital money which may or may not be deemed to be capital money for the purposes of any law relating to settled land,

and even if the Trustee is a sole trustee.

#### **15.6 Trustee's decisions**

The Trustee may decide:

- (a) whether any money is to be considered as capital or income;
- (b) whether any expense, outgoing or other payment ought to be paid out of capital or income; and
- (c) all questions and matters of doubt arising in the execution of the trusts of this deed.

Every decision on these matters, whether made on a question actually raised or implied in the acts or proceedings of the Trustee, is conclusive and binds all persons interested under this deed.

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### **16 Winding up**

- (a) If on the winding-up of the Trust, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an approved research institute as described in item 3.1.1 of the table in section 30-40 of ITAA 97 and:
  - (1) which is charitable at law; and
  - (1) gifts to which can be deducted under Division 30 of the ITAA 97.
- (b) The identity of the institute referred to in rule 16(b) must be decided by the Trustee.
- (c) A gift or transfer under this clause to an approved research institute must be made to its research fund for the purposes of it undertaking scientific research in the field of natural or applied science which is or may prove to be of value to Australia.

## 17 Governing law

This deed is governed by the laws of Victoria.

### Executed as a deed:

**Signed sealed and delivered by  
George Bryant Macfie**

in the presence of:

X John Roskam  
Witness

G BRI

X G. B. Macfie

X LOW KING LOH  
Name (please print)

**Signed sealed and delivered by  
Institute of Public Affairs Limited  
by:**

X John Roskam  
Secretary/Director

X Thomas W. Quirk  
Director

X John Roskam  
Name (please print)

X Thomas WILLIAM Quirk  
Name (please print)